

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL
DEVELOPMENT PERMIT ISSUED BY
THE CITY OF TACOMA TO THE PORT
OF TACOMA

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY, and
SLADE GORTON, ATTORNEY GENERAL,

Appellants,

vs.

CITY OF TACOMA, PORT OF TACOMA
and JOHN E. MEAKER,

Respondents.

SHB No. 76

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER being a request for review of the issuance of a
Shoreline Management Substantial Development Permit; having come on
regularly for hearing before the Shorelines Hearings Board on the
8th and 9th of February, 8th, 9th, 19th, 20th and 21st days of May,
1974, at Tacoma, Washington; and appellants, Washington State Department
of Ecology and Attorney General, appearing through Robert V. Jensen,

1 Assistant Attorney General and respondent, John E. Meaker, appearing
2 through his attorney, John J. Van Buskirk; and Board members present
3 at the hearing being W. A. Gissberg (presiding), Mary Ellen McCaffree,
4 Arden A. Olson, Robert F. Hintz, Walt Woodward and Robert E. Beaty.
5 and the Board having considered the sworn testimony, exhibits, post-
6 hearing arguments, records and files herein and having entered on the
7 4th day of September, 1974, its proposed Findings of Fact, Conclusions
8 of Law and Order, and the Board having served said proposed Findings,
9 Conclusions and Order upon all parties herein by certified mail, return
10 receipt requested and twenty days having elapsed from said service; and

11 The Board having received no exceptions to said proposed Findings,
12 Conclusions and Order; and the Board being fully advised in the premises;
13 now therefore,

14 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
15 Findings of Fact, Conclusions of Law and Order, dated the 4th day of
16 September, 1974, and incorporated by this reference herein and attached
17 hereto as Exhibit A, are adopted and hereby entered as the Board's
18 Final Findings of Fact, Conclusions of Law and Order herein.

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26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
AND ORDER

DONE at Lacey, Washington, this 30th day of October, 1974.

SHORELINES HEARINGS BOARD

Walt Woodward
WALT WOODWARD, Chairman

W. A. Gissberg
W. A. GISSBERG, Member

Robert E. Beaty
ROBERT E. BEATY, Member

Robert F. Hintz
ROBERT F. HINTZ, Member

Arden A. Olson
ARDEN A. OLSON, Member

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SHB No. 76

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

The above-numbered request for review of the issuance of a
Shoreline Management Substantial Development Permit was consolidated
for hearing purposes only with SHB Nos. 71, 72 and 75 and the hearing
thereon was held at Tacoma, Washington on February 8 and 9, May 8, 9,
19, 20 and 21, 1974 before Board Members W. A. Gissberg (presiding),
Mary Ellen McCaffree, Arden A. Olson, Robert F. Hintz, Walt Woodward

EXHIBIT A

and Robert E. Beaty.

Appellants Washington State Department of Ecology and Attorney General appeared through Robert V. Jensen, Assistant Attorney General; respondent John E. Meaker appeared through his attorney John J. Van Buskirk.

Having heard the testimony and considered the exhibits and post-hearing arguments, and being fully advised, the Board makes and enters these

FINDINGS OF FACT

I.

John E. Meaker owns a site on the Hylebos Waterway, which consists of 12.6 acres comprised of tidal, intertidal and uplands. The site is on the east side of the Hylebos Waterway, directly adjacent and to the north of the Port of Tacoma Hylebos Marina site.

The site is in an area which has for a long time been zoned for and committed to heavy industrial purposes. It is outside of the mouth of the Waterway along whose banks are situated such industries as shipyards, chemical plants, a ship dismantling facility, a scrap metal yard and pier, etc. Under the terms of the relevant zoning and of the Recommended Master Program for Shoreline Development of the City of Tacoma, a marina is a permitted use of the site.

The upland part of the site consists of a narrow strip of land averaging some 22 feet from the shoulder of Marine View Drive to the edge of the bank and high water mark. The site is approximately 373 feet in length along Marine View Drive.

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

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II.

The proposed marina at the site owned by John E. Meaker will have no significant adverse environmental effect on marine life. The testimony of Anna Marie Johnstone, an expert marine biologist and a member of the Pierce County Master Program Citizen Advisory Committee, established that invertebrate species are more prolific near marinas resulting in fish fry in abundance feeding on the organic material under marina floats and docks; a firm substrate, i.e., rocks, pilings and sunken material is more conducive to the development and growth of invertebrates than the mud and log debris now found at the site; that eel grass can naturally and quickly regenerate into a newly dredged area and can also be successfully transplanted to hasten the process.

III.

The City Waterway has been extensively investigated as a potential site for a marina. It is possible that a marina may be located in the City Waterway at some time, but at present and in the near future, it is not a practical marina site. The City Waterway from its entrance to the bridge at South 15th Street is heavily built up with industrial and commercial buildings. The west side of the Waterway, where the marina would have to be placed, is devoted to such uses along virtually its entire length. Dock Street, a heavily travelled city street, serves such industries on their sides away from the water, and on the other side of the Dock Street is the Burlington Northern main line right of way, with associated yards, structures, etc. There is no feasible way of providing parking for a marina, and sanitary sewer

service is not now available in the area. City Waterway is regularly traversed by log rafts, tug and barge traffic, and vessels from Martinac Shipbuilding Co., a shipyard adjacent to the South 15th Street bridge. The presence of a small boat marina in the Waterway would create a hazard of collision and wave damage caused by the presence of such traffic.

The portion of City Waterway south of the South 15th Street bridge includes possible sites for a future marina. The bridge, which is a combination road and railroad bridge owned by the Burlington Northern Railroad, is a swing drawbridge which is normally maintained in a closed position. At high water there is a clearance of three to four feet beneath the closed bridge. Such clearance is grossly insufficient for the safe passage of small boats. It is not practical to normally maintain the bridge in an open position or to open and close it for the large numbers of small boats which would be generated by a marina. There are no immediate plans for removal or replacement of the bridge. As long as the present bridge remains the portion of City Waterway south of South 15th Street is not a practical location for a marina for the reasons hitherto stated.

If a marina were to be built in the City Waterway in the future, it would accommodate approximately 200 boats. The demand for small boat moorages in the Tacoma area is sufficient to support the Meaker Marina and Port Marina at the Hylebos site and such a marina in City Waterway.

IV.

The Meaker Marina project is a major action which significantly

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 affects the environment. John E. Meaker submitted a draft environ-
2 mental impact statement, received comments thereon, which were
3 responded to in a final environmental impact statement, all in proper
4 form and in conformity with the Environmental Policy Act of 1971, .
5 chapter 43.21C, RCW.

6 V.

7 The Meaker Marina is a substantial development on shorelines
8 of this state. On the 6th day of February, 1974, the City Council
9 of the City of Tacoma approved a substantial development permit for
10 the marina pursuant to the Shorelines Management Act of 1971, chapter
11 90.58, RCW. Following hearings by this Board, on February 8 and 9,
12 1974, SHB No. 75, which had been consolidated with SHB Nos. 76, 71
13 and 72 was remanded to the City Council for resolution of an apparent
14 ambiguity in the permit and thereafter rescheduled hearings were
15 held on May 8, 9, 19, 20 and 21, 1974. The permit issued to John
16 E. Meaker complies with the Shorelines Management Act of 1971 in
17 all respects.

18 VI.

19 The Meaker Marina is designed in a manner which will protect
20 fish and shellfish resources and will be aesthetically compatible with
21 surrounding areas. Among its design features is a floating breakwater
22 to allow free migration of fish, and a restriction upon covered boat
23 stalls so as to present an attractive and interesting view of the
24 moorages. The design of the Meaker Marina calls for a landfill area
25 of approximately 3.1 acres which would build up an elevation of 18 feet
26 to above mean lower low water, which will be used for parking and

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 other water related structures.

2 VII.

3 The marina site is located on Marine View Drive, an arterial
4 street which at this point runs along the east shore of Commencement
5 Bay at the foot of a cliff several hundred feet high. The Meaker
6 Marina will be a recreational location serving a substantial portion
7 of the general public, providing for approximately 318 berths for
8 pleasure boats in that location. The marina will furnish access to
9 the general public and it is a type of public recreational facility
10 for which there is a substantial and growing need in the Tacoma area.

11 VIII.

12 All or part of the marina site is within the boundaries of the
13 Puyallup Indian Reservation.

14 IX.

15 Any Conclusion of Law hereinafter recited which should be deemed
16 a Finding of Fact is hereby adopted as such.

17 From the foregoing Findings of Fact the Board draws the following

18 CONCLUSIONS OF LAW

19 I.

20 The Board has jurisdiction of the parties and of the subject
21 matter.

22 II.

23 The substantial development permit granted to John E. Meaker for
24 a marina at the Hylebos Waterway site is consistent with the terms,
25 purposes and interest of the Shoreline Management Act of 1971,
26 RCW 90.58.020, the Guidelines of the Department of Ecology,

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 WAC 173-16-010 to 173-16-200, and the Recommended Master Program for
2 Shoreline Development of the City of Tacoma.

3 III.

4 The draft of the environmental impact statement and the final -
5 environmental statement prepared for John E. Meaker and other documents
6 filed in support of the John E. Meaker application for a substantial
7 development permit for a marina, together with the actions taken by
8 the City of Tacoma with reference to such application, comply with the
9 Environmental Policy Act of 1971, chapter 43.21C, RCW.

10 IV.

11 There was a reasonable investigation and discussion of the
12 environmental effects of this and alternative marina sites, and
13 sufficient information was presented to permit a reasoned choice of
14 alternatives. The alternatives required to be discussed by the
15 Environmental Policy Act are those which are reasonably available.

16 V.

17 Department of Ecology Guidelines relating to filling, breakwaters
18 and vehicular parking are not mandatory, but are suggestive and
19 flexible dependent upon local conditions. Under the conditions at the
20 Meaker Marina site on the Hylebos Waterway, the facilities contemplated
21 by the substantial development permit are appropriate and reasonable
22 and within the intent of such guidelines.

23 VI.

24 The proposed marina by John E. Meaker at the Hylebos Waterway
25 site and its appurtenant structures is a water-dependent use of
26 such site.

27 FINDINGS OF FACT,
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VII.

The action of the City Council of the City of Tacoma in granting the substantial development permit should be sustained, and the permit should be approved as valid.

VIII.

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

Therefore, the Shorelines Hearings Board issues this

ORDER

The action of the City Council of the City of Tacoma in granting the substantial development permit of a marina by John E. Meaker at the Hylebos Waterway site is sustained. The permit is approved as valid.

DATED this 4th day of September, 1974.

SHORELINES HEARINGS BOARD

Walt Woodward

WALT WOODWARD, Chairman

Robert E. Beaty

ROBERT E. BEATY, Member

W. A. Gissberg

W. A. GISSBERG, Member

Robert F. Hintz

ROBERT F. HINTZ, Member

Arden A. Olson

ARDEN A. OLSON, Member

FINDINGS OF FACT,
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